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SAMUEL L. WILKINS
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MEMORANDUM

TO: Agency Heads and Human Resources Directors of All Agencies, Departments, Institutions, Boards, and Commissions

FROM: Samuel L. Wilkins, Director

DATE: June 28, 2005

SUBJECT: Rights of Teacher and Employee Retention Incentive (TERI) Participants and Retirees Employed by State Agencies

On June 10, 2005, the Governor signed into law Senate Bill 618, the State Retirement System Preservation and Investment Reform Act. Because of the changes presented by this legislation and the large number of TERI employees scheduled to end their participation at the conclusion of the calendar year, OHR has received several questions from agencies. The following information is to provide clarification to the Statute regarding leave, grievance rights and the rehire of TERI participants and other retirees of the South Carolina Retirement System.

Rehire Following Retirement

- ? Federal and state laws require TERI employees to separate from employment at the end of their TERI period. Upon this separation from employment, the employee would experience a break in service and would not retain rights to the position held while in the TERI Program.
- ? Former TERI participants may be hired into any type of position (FTE Position, Temporary Grant, Time-Limited Project, or Temporary) after their TERI period has ended.
- ? Employees may be hired into the same FTE position that they held while participating in the TERI Program. If the agency wishes to rehire the former TERI participant into the same position held as a TERI program participant, the agency would not be required to post the vacant position. In order to comply with the federal separation requirement before receiving a distribution of his or her accumulated TERI funds or drawing an annuity, a former TERI participant would be required to end employment with the agency for at least one day before being eligible for reemployment by a State agency that is a covered employer under the South Carolina Retirement System.

- ? Employees who return to employment covered by the S.C. Retirement System will no longer be restricted by an earnings limitation as previously stated in § 9-1-1790 of the S.C. Code of Laws.

Leave

- ? TERI participants who entered the TERI program on or before June 30, 2005, will still be eligible to receive a payment for up to 45 days of unused annual leave upon ending their participation in the TERI program.
- ? Employees beginning participation in the TERI program after June 30, 2005, will not receive payment for unused annual leave until after the employee terminates from state employment and ends participation in the TERI program.
- ? Upon completion of their TERI program, employees forfeit all unused sick leave.
- ? Retirees hired by the state after June 30, 2005, will not receive payment for unused annual leave following termination.
- ? Retirees hired after a break in service are considered new hires; however, they are given credit for prior state service for purposes of computing bonus leave earnings as stated in Section 8-11-640 of the S.C. Code of Laws.

Grievance Rights

- ? Any employee who becomes a TERI participant after June 6, 2005, will be exempt from the State Employee Grievance Procedure Act.
- ? Current and future retired members of the South Carolina Retirement System, except TERI participants who entered the program prior to June 6, 2005, hired by an agency to fill all or some fraction of a full-time equivalent (FTE) position will be exempt from the State Employee Grievance Procedure Act effective July 1, 2005.
- ? TERI participants and retirees at a four-year post-secondary educational institution who are covered by their institution's grievance procedure for academic employees under Section 8-17-380 of the S.C. Code of Laws are not affected by these changes. These employees should continue to be covered by the academic grievance procedure for the institution.

Reduction in Force

- ? Any employee who enters the TERI program after June 6, 2005, is exempt from the State Employee Grievance Procedure Act and therefore will not retain reduction-in-force rights.
- ? Effective July 1, 2005, current and future retirees, except TERI participants who entered the program prior to June 6, 2005, who are hired into a full-time equivalent (FTE) position will be exempt from the State Employee Grievance Procedure Act and therefore will not retain reduction-in-force rights.

For further information regarding retirement related questions, please contact the South Carolina Retirement System or go to their website at <http://www.retirement.sc.gov/>.

If you have any other questions not specifically related to retirement issues, please your HR Consultant.

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